

REMARKS

The present amendment is in response to the Office Action dated April 23, 2004. Claims 14-28, 31-34, and 37-42 are withdrawn from consideration. Therefore, claims 1-13, 29, 30, 35, and 36 are currently pending. No new matter is added by way of this response.

The Examiner has indicated that the Information Disclosure Statements (IDS) of May 21, 2001 and July 12, 2001 failed to comply with 37 C.F.R. 1.98(a)(1). Upon a conference call between the Examiner and the undersigned on May 24, 2004, the Examiner was not able to locate copies of the cited art and requested copies of the prior IDS submissions along with copies of any literature and foreign patents or foreign patent applications. The Examiner indicated that copies of the cited U.S. patents would not be necessary. Therefore, applicants enclose herewith the requested copies at Tab A.

The Examiner has also noted that a supplemental oath/declaration is required to reflect the proper priority claim to the provisional application. Per the Examiner's request, Applicants submit herewith a newly executed supplemental oath/declaration at Tab B.

The Examiner has rejected claims 1-6, 10-13, 29-30, and 35-36 as anticipated under 35 U.S.C. §102(b) by U.S. Patent No. 5,647,863 (to Hammons et al.). Specifically, the Examiner states that all of the limitations of the noted claims are disclosed by Hammons et al. (see pages 4-8 of the Office Action).

This rejection is respectfully traversed, and reconsideration is respectfully requested.

The Examiner refers to the topsheet as the acquisition layer and the storage layer as a wicking layer. However, applicants respectfully submit that Hammons teaches an absorbent article with a topsheet (38) and backsheet (40) and an absorbent core (42) (see col. 4:58-67). The absorbent core of Hammons comprises three members: an acquisition layer (44), a storage/distribution layer (46), and an indicator layer (48). According to Hammons, the indicator

layer and the acquisition layer, have lower capillary suction than the storage layer. There is no separate wicking layer in Hammons.

Applicants submit that item 48, as identified in Figures 2, 4, 5, and 6, is an indicator member and not a wicking layer. Item 48 flanks the acquisition and storage/distribution members and is not placed beneath the storage/distribution member 46. As shown in Figure 7, the indicator member 48 is positioned between the backsheet and the storage/distribution member to make a thicker pad (column 15, lines 16-24), but the indicating portions are still along side or flanking the acquisition and storage/distribution members. In column 15, line 4, it is stated that the density of the indicator member 48 is in the same range (0.04 - 0.10 g/cc) as the acquisition member 44. Also, at column 10, line 64, Hammons teaches that capillary suction of storage/distribution member 46 should be higher than the capillary suction of the acquisition member. In fact, it is preferable that the indicator member has capillarity similar to the acquisition member (Column 13, line 10 and column 14, line 63).

The Examiner also states that the so-called wicking layer has compressible hardwood pulp, citing column 12, lines 16-28 for support. However, this description is directed to the storage layer. Additionally, the Examiner indicates that the density ranges of the “wicking” layer are disclosed at column 15, lines 3-6. However, applicants submit that these values are the density values for the indicator layer, not for a wicking layer. Furthermore, reference is made to column 11, lines 11-15 to teach the ratio of the vertical wicking height of the “wicking” layer to the height of the storage layer. However, applicants submit that this ratio is instead the ratio of the storage layer to the acquisition layer.

The Examiner equates the storage/distribution layer of Hammons with the storage and wicking layer of the presently claimed invention. However, the Examiner does not acknowledge that our layers are separate layers, not one in the same. The separate wicking layer in the present invention is one of the more novel features of the present invention, as clearly discussed on page 9, line 19 to page 10, line 5 of the specification. Therefore, for the reasons discussed above,

applicants submit that Hammons fails to teach the presently claimed invention. Applicants request that the rejection be withdrawn.

The Examiner has also rejected claims 7-9 as obvious under 35 U.S.C. §103 by Hammons and U.S. Patent No. 5,919,177 (to Georger et al.) and U.S. Patent No. 4,324,247 (to Aziz). According to the Examiner, Hammons teaches low rewet characteristics, and Georger and Aziz disclose rewet values known in the art. Therefore, it would be obvious for one skilled in the art to combine these references to arrive at the presently claimed invention.

This rejection is respectfully traversed, and reconsideration is respectfully requested.

In response, applicants submit that Hammons does not teach the presently claimed invention for the reasons presented above. The Examiner's reliance on column 5, lines 17-19 to state that Hammons teaches an absorbent core with low a rewet value is misplaced. This excerpt is a description applying to the topsheet of Hammons, not to the absorbent core which is defined in Hammons as including the acquisition layer (44), storage layer (46), and the indicator layer (48). Therefore, in addition to the absence of the wicking layer, Hammons fails to teach low rewet characteristics for an absorbent core.

Providing the teachings of Georger and Aziz with Hammons fail to achieve the presently claimed invention. Georger teaches a low rewet value for an absorbent material with an apertured, film coated lofty nonwoven fabric. Applicants submit that even with this teaching, the prior art does not arrive at the presently claimed invention. Likewise, Aziz teaches a range of rewet values above and below 1.0 gram. However, again, this teaching fails to provide the missing teachings of Hammons. Therefore, for the reasons discussed above, applicants submit that Hammons, in combination with Georger or Aziz, fails to teach the presently claimed invention. Applicants therefore request that the rejection be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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